THE HIGH COURT REGULATION AMENDMENT BILL.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I beg to move that the High Court Regulation Amendment Bill be finally read and passed and that it come into force from the 1st of Chingam, 1100.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I second it.

The Bill was finally passed and the suggestion that it shall come into force from the 1st Chingam, 1100, approved.

THE REVENUE RECOVERY REGULATION AMENDMENT BILL.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I beg to move that the Revenue Recovery Regulation Amendment Bill be finally read and passed by the Council.

MR. S. PARAMESVARA AIYAR (*Secretary to Government*): I second it.

The Bill was finally passed.

THE TRAVANCORE MINES AND MINERALS BILL.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I beg to introduce the Travancore Mines and Minerals Bill and beg to move that the same be read in Council.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I second it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The Bill is a simple one. Although we have got mines in Travancore, there are no provisions so far to regulate labour and to safeguard the interests, health and safety of the labour employed in these mines.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): May I know how many mines there are in Travancore?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I understand that there are seven mines; but some of them are not working though they may be worked again. It is also necessary that there should be provision to enable the Government or its servants to prospect for minerals on private grounds. As it is, it is only with the consent of a private person that entry may be made in a private compound. No prospecting for minerals could be done at present on private lands. It has lead to considerable difficulties and it has not always been found possible to get the owner's permission to enter into his land for the purpose of prospecting for minerals. According to the Bill, any Government officer may enter upon any land for prospecting for minerals. Provision for the payment of sufficient compensation for any damage done to the land has also been made. In cases of difficulty, reference may be made to a Board which is to decide the amount of compensation finally. And thus provisions may be made so as to regulate

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[Mr. V. Subba Aiyar.]

labour and to safeguard the health and safety of the labouring classes. The other provision is the Chapter regulating the penalty for non-obedience of the various Chapters in the Bill, while the last Chapter deals with the rules to be framed by the Government. The Bill is a simple one and I do not think it is likely to be contentious.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I think there is the necessity of a challenge to the measure proposed by my friend Mr. Subba Aiyar. The law with respect to mines is a pretty big chapter in the history of law. The rights of the Crown to mines and minerals have been the subject of very serious controversy, and have been the subject of divergent decisions, if we look into the history of the English law. It was the decision of the case known as the, "Great case of the Mines," which finally settled the rights of the Crown in its aspiration for universal monopoly of all mines and minerals throughout the British realm, confining the same to what are now known as royal mines, *i. e.*, mines relating to gold and silver alone. With respect to other mines, it was established, by the case I referred to, that there might be private ownership of mines in Great Britain. In India also, private ownership of mines is recognised by statute law. For example, we have got the Land Acquisition (Mines) Act, XVIII of 1885, which recognises private ownership of mines in British India. Coming to Travancore, the matter seems to stand on an entirely different basis. We have got a Proclamation of the year 1056, which declares that all minerals and metals in the whole State of Travancore are royalties of the Crown in Travancore. So then, I would submit, that the position of the Crown in Travancore is extremely difficult to justify. The great bulk of land in Travancore may be seen to fall under two heads, namely, *Jenmom* property and Government property. With respect to *Jenmom* property, it is very clear history that the claims of the State in Travancore, or the sovereign rights of the Sovereigns of Travancore, never touched even the surface, and much less the subsoil. Coming to Government lands, a Proclamation of the year 1040, generally known as the *pattam* Proclamation, practically assimilated the holding of Government *pattam* land almost to the same condition as *Jenmom* land, as may be seen from Section 6 of the *pattam* Proclamation where the Government declare that, so far as the resumption of property comprised in *pattam* land is concerned, it would be resumable by the Government, only as if it were *Jenmom*. So then, in the matter of *Jenmom* lands, where the Crown possessed absolutely no rights in the subsoil, and in Pandarapattam lands where absolute proprietorship was conferred on the tenants by law, my submission is that it is extremely difficult to accept the law as laid down in the Proclamation of 1056. While such is the case, it is tacitly assumed, I think, by Mr. Subba Aiyar that the rights to all metals and minerals in Travancore belong to the Government.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Not tacitly, but expressly assumed by Statute.

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): That is what I say. It is upon the basis of that Proclamation, accepting the law as laid down there, that this particular measure is brought forward. So this measure I would characterise as an underground move in more than one sense. In fact, I would submit that it is another nail driven into the coffin of popular rights with respect to mines and minerals in Travancore. The enactment of this measure supplies another bar to the assertion of popular rights regarding mines and minerals, and therefore, if we accept this measure, as put forward by Mr. Subba Aiyar, we are practically silently undermining the rights of the people in the matter of mines and minerals in Travancore. My submission is that, before this measure is accepted, I would call upon the Government of Travancore to delimit and restrict in a reasonable way the rights of the Crown with respect to mines and minerals in Travancore. That is one objection I have got with respect to this measure.

Secondly, another objection on the merits of this performance itself is that it leaves indefinite what exactly is meant by a mine or a mineral. No doubt, my friend would point out that it has been the despair of judges to define correctly the expressions mines and minerals. From gold and silver and diamond, down to slate, kerosine and probably laterite, there is a long belt of things which may probably be classified as mines and minerals; and in this measure what Mr. Subba Aiyar provides is that any decision of Government as to whether a particular substance is a mineral or not would be conclusive so far as the people are concerned. Clause 42 of the present Bill runs as follows:—

"If any question arises as to whether any excavation or working is a mine within the meaning of this Regulation, the Government may decide the question, and a certificate signed by the Chief Secretary to the Government shall be conclusive on the point."

Now I beg to submit that it is a rather serious provision that the executive Government should be entitled to define what exactly a mine is. And if occasionally, as happens, owing to mistake, perversity, or to any other undesirable tendency on the part of the executive officers of the State, it was held that laterite stones are mines for purposes of this Regulation, the hardship of the people of Travancore would be absolutely indescribable. Such a power should not be vested in the Government. Then the object of this particular measure is to enable the Government to prospect for mines, and in that connection to enter upon the lands of other people, to make excavations there, and incidentally to give rise to all manner of injury also. With respect to damages, there is a Section—Clause 4 of the proposed Bill—which again seems to arm the executive Government with an authority unparalleled in the history of statutory law. For, it says, whatever be the amount of damage that may be caused, if an authority, designated by Government, comes to the conclusion that only so much of damages need be paid, it ought to be final, and the party entitled to damages shall not be entitled to claim anything further in any court of law established in Travancore. I shall read the Clause.

"The officer mentioned in Section 3 shall, at the time of such entry, pay or tender payment for any damage which may be done by the acts aforesaid; and in case of dispute as to the sufficiency of the amount so tendered, he shall at once refer the dispute to the

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[Mr. T. K. Velu Pillai.]

decision of such authority as the Government may, by general or special order, appoint in this behalf. Such decision shall be final and payment shall be made accordingly."

We have come across the proceedings of certain special officers employed by the Government who have shaken the faith of an ordinary citizen like myself by the ultimate results of their decision. I would ask, therefore, if the party who suffers the damage is a private citizen, why not he be entitled to nominate a person as an arbiter between himself and the Government. If the Government are extremely shy of facing the situation in a civil court, that ought to be the only course open to them. It is the party that suffers the loss, not the Government. So, such provisions in this Bill are also serious objections to the entertainment of a measure like this.

Thirdly, I would ask whether any serious necessity has been made out by my learned friend. In the Statement of Objects and Reasons, my friend states that we have got a few mines in Travancore but they are only surface mines. Where is the guarantee that we are going to have deep-seated mines in Travancore? Without knowing the necessity, he anticipates, I believe, by enacting the measure, that it would automatically come into existence. That is legislating with a vengeance and should not be encouraged. Further, in the matter of the damage that may be caused to the holdings of a private person in the anxiety of Government to discover mines and minerals, the sort of damage that may be caused appears evidently not to have been visualised. For, considering the nature of the damages that may be caused in mining operations, there are a variety of them. It is not only the owner of the property where the mining operations are being carried on that may be damnified, but also the adjacent holders. As a result of excessive mining, what is known as lateral support to land may be endangered and buildings on the adjacent lands may tumble down. There is no provision for that. There are a number of minor unimportant defects also in the measure. But they need not be considered since it is a move to get a sort of tacit assent from the representatives of the people confirming their absence of right in the mines and minerals in the State; and especially in the absence of necessity, I would oppose the very principle and submit that it may be rejected at the very first blush.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): This is also a measure calculated to deprive the subjects of certain rights, of course, on the ground that the larger interests of the State require such an innovation. In Travancore, the Government have been making frequent invasions on the rights and privileges of the subjects so far as their landed property is concerned. There is the standing fact that the people have no right to the teak and blackwood that grow in their gardens above the surface, although those trees draw their nutrition from the lands for which the holder pays the tax. There has been the Land Conservancy Regulation which has worked so much injustice to the people that we find, year after year, in the Assembly and in this very House, representations being made about the damages

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done to the people. I remember the time of the Markets Regulation when another inroad was made on popular rights. So far as I am able to see, the policy of all civilised Governments is to give greater and greater property rights to the people and not to invade the rights and privileges which have been enjoyed by them from time immemorial. We have been raising our voice against such invasions—but to no purpose. I am one of those who think that, if for very weighty reasons Government should be armed with extraordinary powers, those powers ought to be conferred on them. But those powers ought not to be used for putting the poor owners of property to difficulty when there is no commensurate advantage to the State. The State Geologists—very highly qualified and patriotic men—who are natives of Travancore and who take a good deal of interest in the development of Travancore, have been going round, from place to place, visiting different centres, and seeing if there is any possibility of mines being discovered in our State. But during the last fifteen years they have not been able to do much—I should say they have been able to do nothing. I do not forget that a boring instrument has been sanctioned in the last budget session. It is only by way of abundant caution that the Industries Department has asked for it. I am sure that the Director of Industries would not concede that during the last fifteen years they have not been able to do any work because of the absence of the boring instrument. They have been able to do some work according to their light even without it. In spite of their qualification and their experience, they have not been able to discover anything. I wonder why we should then enact a law to enable these officers to invade private rights, to enter upon the land and succeed in knowing nothing, seeing that, so far as science and observation have demonstrated, Travancore is not a place where valuable minerals can be obtained. The history of mines in Travancore has been a disappointing one. Therefore, we shall not be justified in legitimatising trespass. The powers vested in the officers would open the door for petty tyranny, because officers will have to act upon information furnished by their subordinates. It may be said that there is an ore of gold in a certain place. If, on the strength of certain conjectures, an officer empowered by Government is given the authority to enter upon a land, that is certainly a serious affair. It is only from slender hypotheses that he can work. He cannot bore a hole unless he enters upon the land. Therefore conjecture seems to be the most important source of action which may be pursued by these officers.

In Travancore, as has been observed by Mr. Narayana Pillai, a certain class of proprietors have got absolute proprietary rights over land. I can understand, Sir, that, if the Government wish to have certain extraordinary powers which they cannot do without, they should go and ask the Council to pass a law enabling them to do so. But here is a questionable, a problematic, I would even say, an undesirable result. Many competent people from outside—scientists and explorers—have come here and satisfied themselves that the prospects of mining in the State are very feeble. In the light of these facts, this Council should not be asked to pass this measure which takes away the rights of the subject,

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[Mr. I. C. Chacko.]

when proper necessity has not been proved, when the Economic Development Board has not recommended the passing of this measure, when the absence of this measure has not prejudiced scientific exploration by the departments concerned. There is a feeling that every law that is passed militates against popular rights, and it is also usual to find, in these new legislative measures, clauses which deprive the civil courts of their jurisdiction—Sections which say that, if some particular officer selected for the purpose by Government affixes his signature in favour of a particular view—in this case that a certain substance is a mineral,—the jurisdiction of the civil courts should be ousted. It is well-known, Sir, that the Chief Secretary to Government will act upon the information furnished by the heads of particular departments. The Chief Secretary may not know anything about mines and minerals. Therefore he is to accept the opinion given by others; and the law invests the Chief Secretary's signature with an amount of sanctity which cannot be traversed by a court of law. I would put it to you, Sir, why create all this trouble when there is no necessity? My learned friend who introduced the Bill has been complaining that there is so much work in the Head Sirkar Vakil's and Additional Head Sirkar Vakil's offices. Why consume the time, stationery and printing material in publishing this Bill? We do not want a law because there is a similar law in other places where there are mines. It is to encumber the Statute book and to create some unpleasant feelings in the minds of the people that this proposed legislation will be useful. I trust, therefore, that the Government will consider once more whether there is any necessity for having this Bill passed into law. I am not satisfied that there is such necessity. I therefore oppose the Bill.

MR. I. C. CHACKO (*Director of Industries*): Sir, I was listening with great interest to the speeches made by my friends Mr. P. K. Narayana Pillai and Mr. T. K. Velu Piliai. I do not wish to enter into the legal aspects of this Bill. But I must remove some of their apprehensions. Mr. P. K. Narayana Pillai said that, because in England only certain minerals or certain metals were royalties, there was no need of legislation—a comprehensive legislation of this kind—in Travancore. As Mr. P. K. Narayana Pillai said, in England there are only a few minerals—gold, diamond and one or two more—over which the King or the Government have any rights. But, in Travancore, according to the Proclamation referred to by Mr. P. K. Narayana Pillai, all minerals are royalties; and I do not think we can go behind that—when we are discussing this Bill. If these minerals are the property of Government, they should certainly have the right to mine or to examine them. I do not see the meaning of saying that such and such things are the property of a person when that person cannot have access to that property.

Mr. P. K. Narayana Pillai said that the definition of mineral might be applied to laterites and stones and such other things and that this Regulation might be made to apply to quarries or places where these

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things were recoverable. But then, according to the practice now, we are not applying the Royal Proclamation to such things.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is there a definition of mines and minerals in the Royal Proclamation that I referred to?

MR. I. C. CHACKO (*Director of Industries*): We may adopt the scientific definition of it. I am not a lawyer and I do not know how the lawyers would argue the thing.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I know if Mr. Chacko has perused that Proclamation?

MR. I. C. CHACKO (*Director of Industries*): Yes, I have perused it many times. Anyhow, scientifically, according to geologists, a laterite would not be a mineral. A mineral must be a definite chemical compound.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is kerosene a mineral?

MR. I. C. CHACKO (*Director of Industries*): Yes.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I know if garnet is a mineral?

MR. I. C. CHACKO (*Director of Industries*): Yes.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Will there not be garnet in granite blocks and gneiss blocks?

MR. I. C. CHACKO (*Director of Industries*): Yes.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): And are not most of the rocks in Travancore composed of gneiss?

MR. I. C. CHACKO (*Director of Industries*): Yes.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): And will there not be plenty of garnet in those gneiss blocks?

MR. I. C. CHACKO (*Director of Industries*): Yes, there will be. Now the Council is aware, and the opposition side moved in some of the former meetings, that Government should undertake boring for petroleum, and then—

MR. JOSEPH PANJIKARAN (*Shertallai*): Have you got down that boring machine?

MR. I. C. CHACKO (*Director of Industries*): Not yet.

MR. JOSEPH PANJIKARAN (*Shertallai*): Have you written for it?

PRESIDENT: How does that arise?

MR. JOSEPH PANJIKARAN (*Shertallai*): It is necessary for finding out whether—

PRESIDENT: It does not arise here.

MR. JOSEPH PANJIKARAN (*Shertallai*): It does arise here.

PRESIDENT: You should not contradict what I say, Mr. Panjikaran. My ruling is that it does not arise.

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[Mr. Joseph Panjikaran.]

MR. I. C. CHACKO (*Director of Industries*): Mr. T. K. Velu Pillai said that the State Geologists did not discover anything. But that is not the fact. They have discovered certain minerals and to prove the commercial possibility of these, prospecting will have to be done.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): If they have discovered any mines, is there any necessity of prospecting?

MR. I. C. CHACKO (*Director of Industries*): I do not know what is meant by "discovering any mines".

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): My friend said that they had discovered certain mines.

MR. I. C. CHACKO (*Director of Industries*): I said minerals.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): If they have discovered any minerals in sufficient quantity, may I know whether there is any necessity for prospecting?

MR. I. C. CHACKO (*Director of Industries*): Yes, there is. Among these may be mentioned lignite and kaolin which occur in the Varkalai formation which occupies about 500 square miles, and all that land is registered with the exception of some *porambokes* here and there. If we want to examine these for mines, we have to enter upon private lands.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): May I know whether Mr. Chacko, when he was a State Geologist, addressed the Government upon the necessity of passing a law of this kind?

MR. I. C. CHACKO (*Director of Industries*): Yes, I had. Unless the persons who are asked to prospect for these minerals are empowered to enter upon private lands, I do not see how they can carry on the prospecting.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Will Mr. Chacko assure the House that hitherto they have not entered upon private lands to carry on their investigation?

MR. I. C. CHACKO (*Director of Industries*): Yes. We were carrying on only superficial investigation, and people never objected to our entering upon their lands for that purpose. But in prospecting we have to make excavations which private people may object to. I will describe some of the difficulties.

MR. JOSEPH PANJIKARAN (*Shertallai*): Did you feel this difficulty when you were serving the State as a State Geologist?

PRESIDENT: He is still continuing as State Geologist.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The question has to be addressed to the Chair.

MR. JOSEPH PANJIKARAN (*Shertallai*): I shall explain hat I mean. He says that people may object when he makes excations for the purpose of prospecting.

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PRESIDENT: You are not asking a question. Please put the question to me.

MR. JOSEPH PANJIKARAN (*Shertallai*): I want to ask Mr. Chacko whether he has felt the difficulty when he was acting as the State Geologist and trying to find out whether there were minerals or mines, or whether he has made any representations to Government.

PRESIDENT: Have you understood Mr. Panjikaran's question, Mr. Chacko?

MR. I. C. CHACKO (*Director of Industries*): Yes, there are instances of people objecting.

MR. JOSEPH PANJIKARAN (*Shertallai*): No, I do not think you have understood me aright.

PRESIDENT: You want to know whether Mr. Chacko has ever experienced any difficulty. You must refer to him in the usual way. You have to address him not in the second person but in the third and direct your questions to me.

MR. JOSEPH PANJIKARAN (*Shertallai*): After all, it is only a technical mistake.

PRESIDENT: It is the technical form in which you have to put the question. Kindly put your question in that form.

MR. JOSEPH PANJIKARAN (*Shertallai*): May I know whether Mr. Chacko has ever found this difficulty?

PRESIDENT: Which difficulty, please?

MR. JOSEPH PANJIKARAN (*Shertallai*): The difficulty of having to make excavations in order to see whether there are mines or minerals anywhere.

PRESIDENT: Mr. Chacko will now answer. Mr. Chacko, Mr. Panjikaran wants to know whether you have experienced any difficulty in exploring for mines and minerals on private lands hitherto and whether you have made any representations to Government in that matter.

MR. I. C. CHACKO (*Director of Industries*): Yes, I have experienced difficulties; and it is as a result of my representations that this Bill has been sought to be introduced into the Council.

MR. JOSEPH PANJIKARAN (*Shertallai*): I want to know whether he has made any representations to Government.

PRESIDENT: He has; that is what he is saying.

MR. I. C. CHACKO (*Director of Industries*): I must refer to a few instances where difficulties have been experienced due to the want of a mining Regulation in Travancore. Some time ago, a certain firm was carrying on mica mining in Punalur. They were working it open-cast, that is, not as a mine but as a quarry and they had a very deep working face and the rock there was not at all strong. It would give way during the rain, and in a country where there was a mining law, such a thing would not be permitted, because that would lead to big accidents. Men would die. What Government could then do was

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[Rao Bahadur K. A. Krishna Aiyangar]

only to cancel the agreement between that Company and themselves, and to cancel the agreement completely meant the stoppage of the mine and there was no means of enforcing the safety of the men working in that mine.

Another instance is that of the Vellanad mine. Now we do not know where the mine was. They worked it for a number of years, then closed it, and they have given no plan, nor any other record of the mine, as there was no provision by which those records could be had from the parties concerned and maintained by the Government. Now, such a state of affairs is very dangerous. In England, in Cornwall and other places, serious accidents have occurred due to want of such records. It may sometimes happen that we may start a mine in the neighbourhood of a closed mine and then it may so chance that we may be driving a level to the old mine which will be filled with water. In such a case all that water will rush into the new mine and serious accidents will result. To avoid this, in all civilised countries, they insist upon all mine owners supplying to the Government the plans, elevations and all other records about the mines, so that even when these mines are abandoned, Government may have a correct knowledge of their positions in order that future accidents may be prevented. Even for that purpose it is necessary that we should have a Mines Regulation.

Then again, we have to call for various returns from these mine owners and, as far as I understand, none of the existing Regulations empower the Government to call for returns of mining concerns. So, for the purpose of obtaining correct returns of the minerals produced in Travancore, we want a Regulation like the present one. These are the few remarks I have to offer.

MR. L. R. RAJARAJA VARMA KOIL TAMPURAN (*Edavakai*): I want to know whether—

PRESIDENT: Mr. Chacko has sat down. What is it please?

MR. L. R. RAJARAJA VARMA KOIL TAMPURAN (*Edavakai*): I want to put a question to the Law Member regarding the definition which has been so much discussed here.

PRESIDENT: We are now discussing the general principles of the Bill. The definition is a matter of detail. If the introduction of the Bill is sanctioned by the Council, the Bill will naturally be referred to the Select Committee. All those details will have to be discussed by the Select Committee.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): Sir, it is not without a feeling of misgiving that I rise to support the motion that the Bill be read in Council. At the outset, let me make my position clear with reference to the ownership over existing mines and mines that may come into existence at a later stage. As matters stand at present, it is not open to this House to discuss the

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legality of the Proclamation under which royalties in all minerals are vested in the Crown. The analogy of England would not apply because—

MR. M. R. MADHAVA VARIAR (*Chengannur cum Pattanamitta*): May I know whether we cannot say that the Government should not have ownership?

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): If that is brought forward in the form of a resolution to induce the Government to modify an earlier statute in the light of modern ideas with reference to the ownership of mines, I think my friend will be perfectly in order. But, it seems to me that, so long as that Proclamation forms part of the law, we cannot object to the introduction of the measure before the House. I still grant that the earlier Proclamation took away the rights of owners of lands in Travancore.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is it not open to this House to discourage any confirmatory regulation?

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): A confirmatory regulation is not necessary for validating existing rights. They are absolutely unassailable at present.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is it not open to this House to discourage such a procedure?

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I think we have to take note of the requirements of modern mines. Without prejudice to the rights of the Council at a later stage to point out the desirability of effecting a radical change in the implication of the Royal Proclamation—without prejudice to those rights—it seems to me that this question has to be discussed in the light of the facts that have been brought to the notice of the Council by Mr. Chacko. While I was listening to my friend Mr. Narayana Pillai, I thought that there was absolutely no necessity for a measure of this kind, especially when the mines that are at present worked in Travancore are surface mines and that the necessity for providing for the safety, health and convenience of parties employed in mines is, more or less, a problematical affair. I thought my friend Mr. Subba Aiyar was simply providing for a contingency that might take place in the near future or that might not take place at all. But, after hearing Mr. Chacko, I have felt that, so long as the Council expects the Department of Geology and Industry to justify itself, it is only fair that the Council should arm him with the necessary powers for utilising the results of scientific investigations that have been carried on by the Department to see whether they can be converted into commercial or industrial concerns of a profitable character. Without much technical training, one can understand that one has to dig deep before one can see whether any particular mineral occurring in a particular locality can be had in sufficiently large quantities to be put on the market as a commercial concern. Necessarily, for the purpose of determining these questions, the executive have to be armed with certain powers in the matter of entry on

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[Mr. V. Subba Aiyar.]

private lands and carrying on boring operations therein just to determine whether it is worth while carrying on the undertaking. In that view of the question, it appears to me to be certainly necessary to provide the authorities, either Government officials or licensees, with power to enter upon private lands and to carry out the preliminary operations necessary for forming a conclusion.

The dangers pointed out by my friend Mr. Narayana Pillai in other respects appeal to me as real dangers that the Council should guard against. I thought, Sir, that in the old Council there was a tendency—a marked tendency—on the part of the Government to take away the jurisdiction of Civil Courts. I felt then, and I do feel now, that there has been absolutely no justification for the Government of Travancore fighting shy of its judiciary. I said then that it was the highest compliment that the Government could pay its judicial officers, when it was growing nervous as regards submitting their orders for revision to a Civil Court. Atfer all, the Civil Court must be the ultimate bulwark of popular liberty againstofficial aggression. Whether deliberate or otherwise, that portion of the Bill requires serious consideration.

In view of the awakening in the west and the resolutions of the Washington Conference with reference to the protection of labour, the Government of India passed very recently a series of legislative measures ending, I believe, with the Workmen's Compensation Act which comes into force at an early date. It will certainly be desirable to introduce some sort of comprehensive legislation for protecting labour and providing for the convenience and comforts of the parties employed in mines; so that, while I am for the Bill being referred to the Select Committee, the particular objections pointed out by my friend Mr. P. K. Narayana Pillai, in other respects than the question of ownership, do appeal to me very strongly and they require very careful consideration at the hands of the Select Committee.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The Bill does not attempt to confirm ownership of mines at all. If the ownership vests in the Government now, it will be so even after the Bill is passed. If the ownership of mines vests in a private individual, it will continue to do so even after the present Bill is passed; so that it has nothing to do whatsoever with the ownership. The first portion of the Bill is purely about prospecting and nothing else. Whether a mine belongs to a private individual or to the Government, it is absolutely necessary that the Department of Geology should prospect for minerals on private gardens and private lands and for that purpose enter upon and make the necessary excavation, etc., in them. A question was asked whether there was any objection on the part of any particular individual. There may or may not be objection. As Mr. Chacko pointed out, once you begin to make excavations, there may be serious objections. The only safeguard necessary is that, whatever loss or damage accrued to the party, it should be sufficiently compensated for by the Government interfering with the ownership of land. That has been provided for.

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : It was seriously contended that the right of civil courts was being taken away. In all such cases the idea is to constitute a Board whenever the question has to be decided upon. May I know whether you have provided for the Board ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Yes.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : In what Section ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I believe there is a Rection. It is only in certain cases that it will be done.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : In the parent Act IV of 1823 there is a reference to a Board.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Here also there is a provision.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Here there is no provision for the Board.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Yes.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : In which clause, please ?

PRESIDENT : I think that this is after all a matter of detail.

MR. V. SUBBA AIYAR (*Additinoal Head Sirkar Vakil*): Yes' I say the constitution of the Board may be determined by the rules to be framed by the Government. Further, if there is any objection as to that, it may be considered in detail at the Select Committee stage.

Then again, it may not be possible for us to know whether a particular thing is a mine or a mineral so that it may not be possible to have the same decided upon now. Unless there is the advice of experts, it cannot be done. It is with the advice of their experts that the Government have to do it. Granting that the definition is not quite up to the mark, Mr. P. K. Narayana Pillai knows that, in the case of every Bill sent to the Select Committee—I daresay—every clause is threshed out in detail and very many modifications are made though not contemplated when the Bill is discussed here. Whatever objections there are, I believe, may be sufficiently considered and removed at the Select Committee stage. Mr. T. K. Velu Pillai grew vehement—

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : I was not vehement. My arguments might have been strong. I object to the expression "vehement" and I hope Mr. Subba Aiyar will kindly withdraw the word.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I thought that there was no objection in using the word. If there is any objection to my using the word, I have no objection to omit it.

PRESIDENT It looked more like a compliment.

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